

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-022-00416A

Parcel No. 04-31-402-001

Stanley E. Thomas,

Appellant,

v.

Clayton County Board of Review,

Appellee.

Introduction

This appeal came on for telephone hearing before the Property Assessment Appeal Board (PAAB) on September 21, 2015. Stanley E. Thomas was self-represented. Clayton County Attorney Alan Heavens represents the Clayton County Board of Review. The Board of Review did not participate in the hearing.

Stanley Thomas is the owner of an agriculturally classified property located at 16231 Jasper Avenue, McGregor, Iowa. The subject property is a one-story, frame dwelling with 800 total square feet of living area on the main level, 440 square feet of finished attic, and a 144 square-foot enclosed porch constructed in 1930 and situated on 13.70 acres. The dwelling is listed in normal condition and with average construction quality (Grade 4).

The property's January 1, 2015, assessment was \$43,876, allocated as \$5720 in land value, \$38,156 to dwelling value. Thomas' protest to the Board of Review claimed property was inequitably assessment and that the property was assessed for more than authorized by law section 441.37(1)(a)(1)(a) and (b).

The Board of Review denied the protest. Thomas then appealed to this Board on the over-assessment claim. He asserts the dwelling's correct value is \$15,000.

Findings of Fact

Thomas' appeal asserts that the dwelling is in a state of disrepair and is uninhabitable. Specifically, he reports the basement fills with water when it rains, the rooms do not have flooring, the structure has water damage, the dwelling needs window and door replacements, and it is infested with rodents and pests. We note that Thomas reported the home was uninhabitable on his Board of Review protest but did not detail its deficiencies and failed to attend the hearing he requested before that board. In Thomas' opinion, the house has been over-assessed for at least fifteen years.

Thomas testified that he requested the Assessor's office inspect the dwelling; however, we are unable to determine whether the request was made before the Board of Review decision.

The property record card indicates adjustments were made to the dwelling value to reflect the basement was unfinished, 49% in physical depreciation, and 20% for functional obsolescence. The dwelling is listed in normal condition, which was contradicted by Thomas' testimony describing an inferior condition. We recommend written communication between Thomas and the Assessor's office to arrange an interior inspection of the dwelling when mutually convenient. The inspection can assure the next assessment accurately reflects and adjusts for actual dwelling condition.

Thomas did not provide any other evidence of the property's condition or its fair market value, such as an appraisal, comparable sales, or comprehensive market analysis. In the absence of this evidence demonstrating the property's fair market value, Thomas has not shown the property is over-assessed.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-

b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While Thomas testified regarding his opinion of the poor condition of the dwelling, he did not provide any evidence to establish it was over-assessed or to establish its correct value.

Order

IT IS THEREFORE ORDERED that the Clayton County Board of Review's action is affirmed.

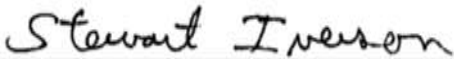
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court

where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

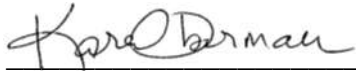
Dated this 14th day of October, 2015.

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Jacqueline Rypma, Presiding Officer

A handwritten signature in cursive script, reading "Stewart Iverson", written in black ink on a white background.

Stewart Iverson, Board Chair

A handwritten signature in cursive script, reading "Karen Oberman", written in black ink on a white background.

Karen Oberman, Board Member

Copies to:

Stanley E. Thomas

Alan Heavens